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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,455	03/25/2004	Darko Pervan	033462-045	4858
21839 7590 05/29/2007 BUCHANAN, INGERSOLL & ROONEY PC POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404			EXAMINER GILBERT, WILLIAM V	
			ART UNIT 3635	PAPER NUMBER
			MAIL DATE 05/29/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/808,455	<b>Applicant(s)</b> PERVAN, DARKO	
	<b>Examiner</b> William V. Gilbert	<b>Art Unit</b> 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 and 3-12 is/are allowed.
- 6) ☒ Claim(s) 13-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>25 April 2007</u> . | 6) <input type="checkbox"/> Other: _____  |

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### DETAILED ACTION

This is a non-final action. Applicant cancelled Claim 2.

Claims 1 and 3-18 are pending below.

#### *Claim Rejections - 35 USC § 112*

1. **Claims 13 and 17** recites the limitation "the upper joint edge" in Claims 13, line 7 and Claim 17, line 8. There is insufficient antecedent basis for this limitation in the claim.

#### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.

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3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**Claims 13-16** are rejected under 35 U.S.C. 103(a) as being unpatentable over Terbrack (U.S. Patent No. 4,426,820).

Claim 13: Terbrack discloses a method for making a floor where the long sides (Figs. 12 and 13) have pairs of opposing connectors (41, 40') for locking adjoining floorboards both vertically and horizontally and the short sides have opposing connectors (41, 40') where the connectors of the floorboards on the long sides allow locking together by an angular motion along the upper joint edge (40'), and the short side connectors allow locking together by an essentially vertical motion; the floorboards comprise a first and second type of floorboard arranged in a mirror-inverted manner (Figs. 11, 23). Terbrack does not disclose attaching a second type of board in a new row to a first type in a preceding row. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to have this arrangement because the same resulting floor would be produced.

Claims 14 and 16: the floor is in parallel rows (Fig. 1).

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Claim 15: the short side connectors are different from the long sides in that they are different lengths.

**Claim 18** is rejected under 35 U.S.C. 103(a) as being unpatentable over Terbrack in view of Wasleff (U.S. Patent No. 1,787,027) and Shah (U.S. Publication 2003/0221387).

Claim 18: Terbrack discloses rectangular floorboards with long sides (Figs. 12 and 13) that lock together with both horizontal and vertical inward angling. Terbrack does not disclose the floorboard with a surface layer of laminate. Shah discloses a floor panel with a surface layer laminate (8). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to have a laminate on the board in Terbrack because it is well known in the art to place laminates on floorboards to improve the aesthetic features of the board. Further, Terbrack does not disclose arranging the panel in a herringbone pattern, though Terbrack does disclose joining and disconnecting is achievable by an angular motion (see connections 41 and 40'). Wasleff discloses a floor system arranged in a herringbone pattern (Fig. 1). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to arrange the panel in Terbrack in a herringbone pattern because it is well known in the art to

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create a floor with a herring bone pattern and the mirror image panels of Terbrack (Figures 11 and 23) permit one to form a herringbone pattern.

***Allowable Subject Matter***

3. **Claims 1 and 3-12** are allowed.

**Claim 17** would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

***Response to Arguments***

4. Applicant's arguments, see pages 11 and 12, filed 30 January 2007, with respect to Claims 7, 10 and 13 have been fully considered and are persuasive. The rejection and objection of the claims has been withdrawn.

Applicant's arguments with respect to **Claims 13-16 and 18** have been considered but are moot in view of the new ground(s) of rejection.

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**Conclusion**

5. The art made of record and not relied upon is considered pertinent to applicant's disclosure. Hilton (U.S. Patent No. 3,377,931); Evjen (U.S. Publication 2004/0035079); Liu (U.S. Publication 2005/0108970; though note the filing date does not make this prior art).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William V. Gilbert whose telephone number is 571.272.9055. The examiner can normally be reached on Monday - Friday, 08:00 to 17:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571.272.6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

WVG

*Paul K. [Signature]*  
*examined 12/26/05*  
*5/24/07*